

DELTA STEWARDSHIP COUNCIL

RESOLUTION 2018-1

CERTIFICATION OF THE DELTA PLAN AMENDMENTS PROGRAM ENVIRONMENTAL IMPACT REPORT; ADOPTION OF FINDINGS AND A STATEMENT OF OVERRIDING CONSIDERATIONS, MITIGATION MEASURES, AND A MITIGATION MONITORING AND REPORTING PROGRAM; AND ADOPTION OF THE DELTA PLAN AMENDMENTS

WHEREAS, in section 29702 of the Public Resources Code and as restated in section 85054 of the Water Code, the Legislature finds and declares that the basic goals of the state for the Delta include the following: Achieve the two coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place; and

WHEREAS, section 85020 of the Water Code states that the policy of the State of California is to achieve the following objectives that the Legislature declares are inherent in the coequal goals for management of the Delta: (a) Manage the Delta's water and environmental resources and the water resources of the state over the long term; (b) Protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place; (c) Restore the Delta ecosystem, including its fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem; (d) Promote statewide water conservation, water use efficiency, and sustainable water use; (e) Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta; (f) Improve the water conveyance system and expand statewide water storage; (g) Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and investments in flood protection; (h) Establish a new governance structure with the authority, responsibility, accountability, scientific support, and adequate and secure funding to achieve these objectives; and

WHEREAS, pursuant to section 85300(a) of the Water Code, the Delta Stewardship Council ("Council") shall develop, adopt, and commence implementation of a Delta Plan that furthers the coequal goals; and

WHEREAS, the Council has, in consultation with the appropriate federal, state, and local agencies as required by Water Code section 85300(b), developed the Delta Plan Amendments; and

WHEREAS, on May 16, 2013 the Council prepared and certified a Program Environmental Impact Report for the Delta Plan (State Clearinghouse No. 2010122028) ("2013 PEIR") and adopted the Delta Plan; and

WHEREAS, on May 17, 2013 the Council adopted regulations implementing the Delta Reform Act and, through those regulations, adopted California Code of Regulations, title 23, section

5012 (“Cal. Code Regs., tit. 23, § 5012”) implementing Delta Plan policy RR P1 (Prioritization of State Investments in Delta Levees and Risk Reduction); and

WHEREAS, on September 29, 2016 the Council adopted an Addendum to the 2013 PEIR and amended Delta Plan recommendation WR R15 and California Code of Regulations, title 23, section 5001(dd)(3) regarding single-year water transfers; and

WHEREAS, following review by the Delta Science Program and external subject matter experts, and public review and comment, on February 25, 2016, the Council adopted refinements to the Delta Plan output and outcome performance measures; and

WHEREAS, the Delta Plan requires revisions to address changes in circumstances and conditions in the Delta, and prior commitments made in the Delta Plan as adopted in 2013; and

WHEREAS, the Council, as lead agency under the California Environmental Quality Act (“CEQA”), Public Resources Code section 21000 *et seq.*, has prepared the Final Delta Plan Amendments Program Environmental Impact Report (State Clearinghouse No. 2017032048) (“PEIR”), which is a program-level EIR pursuant to section 15168 of the Guidelines for implementation of the California Environmental Quality Act (“State CEQA Guidelines”), California Code of Regulations, title 14, section 15000 *et seq.*, and consists of the November 2017 Draft Delta Plan Amendments Program EIR (“Draft PEIR”) and the April 2018 Final Delta Plan Amendments PEIR

WHEREAS, the Delta Plan Amendments (“Project”) consist of the following three amendments to the Delta Plan, all as described in detail in Section 3.4 of the Draft PEIR as revised by the Revisions to Text of Proposed Delta Plan Amendments in Final PEIR Appendix A, Sections 2-4: (1) pursuant to section 85305 and 85306 of the Water Code, updated and new Delta Plan recommendations and regulations regarding strategic investment in Delta levees for risk reduction, and emergency preparedness, response and recovery, all based on best available science, including repealing interim Delta Plan policy RR P1 and adopting new Delta Plan policy RR P1, referred to as the Delta Levee Invest and Risk Reduction Strategy (“DLIS”) Amendment); (2) pursuant to section 85304 of the Water Code, in light of DWR’s rejection of the Bay Delta Conservation Plan as the preferred alternative for conveyance, natural community conservation plan and habitat conservation plan, which would have been incorporated automatically into the Delta Plan pursuant to Water Code section 85320, amendment to Delta Plan recommendation WR R12 to promote options for new and improved infrastructure relating to Delta water conveyance, storage, and the operation of both to achieve the coequal goals, consistent with the 19 Principles for CSO adopted by the Council on November 19, 2015 and based on best available science, referred to as the Conveyance, Storage Systems, and the Operation of Both (“CSO”) Amendment; and (3) pursuant to section 85211 and 85308(b)-(d) of the Water Code, additional revisions to the Delta Plan performance measures to enable the Council to track progress in meeting the objectives of the Delta Plan through quantified or otherwise measureable output and outcome performance measures based on best available science, referred to as the Performance Measures (“PM”) Amendment; and

WHEREAS, on March 16, 2017, the Council filed a Notice of Preparation (“NOP”) of the PEIR with the State Clearinghouse in the Governor’s Office of Planning and Research, and distributed copies of the NOP to approximately 28 recipients by mail and 17 recipients through the State Clearinghouse. Over 3,600 agencies, tribes, organizations and individuals were informed by mail or email of the availability of the Draft PEIR. The Council published the NOP for a 32-day comment period from March 16, 2017 through April 17, 2017; and

WHEREAS, the Council held a public scoping meeting on March 24, 2017 to obtain the views of agencies and the public on the scope and content of the PEIR prior to publishing the Draft PEIR; and

WHEREAS, the Council submitted the Draft PEIR to the State Clearinghouse and issued it for public review and comment for 47 days beginning on November 1, 2017 and ending on December 18, 2017, and extended the comment period to January 22, 2018 for a total comment period of 82 days; and

WHEREAS, during the comment period on the Draft PEIR, the Council held two open houses, on November 1, 2017 and November 2, 2017, and a transcribed public hearing on December 14, 2017 for the purpose of taking public comment on the Draft PEIR; and

WHEREAS, the Council requested a list of California Native American tribes from the Native American Heritage Commission and sent a notification by email to 113 contacts on May 15, 2017; on May 16, 2017, the Council mailed letters of notification to 78 contacts; in response to the notification letters the United Auburn Indian Community (“UAIC”) and the Fernandeño Tataviam Band of Mission Indians requested consultation; consultation by telephone with UAIC was held on July 14, 2017, and with the Fernandeño Tataviam Band of Mission Indians on July 18, 2017, and public open house announcements were sent to the Wilton Rancheria and Buena Vista Rancheria of Me-Wuk Indians at their request on October 11, 2017; and

WHEREAS, agencies, organizations, and members of the public submitted approximately 535 comment letters and emails (including 492 form letters) containing written comments on the Draft PEIR in addition to participating in the public hearing to take comments on the Draft PEIR; and

WHEREAS, Section 3 of the Final PEIR provides responses to written and oral comments received during the comment period on the Draft EIR; and

WHEREAS, the PEIR has been presented to the Council and, prior to taking any action regarding the adoption of the Delta Plan Amendments, the Council has reviewed and considered the information therein, along with all staff reports pertaining to the Delta Plan Amendments, all other pertinent documents, and all written and oral statements received by the Council prior to or at its public hearing on the Delta Plan Amendments and the PEIR; and

WHEREAS, if the Council adopts the Delta Plan Amendments, all of the Mitigation Measures identified in the PEIR and in the Findings attached hereto as Attachment 1 that are within the

responsibility and jurisdiction of the Council will be adopted and incorporated into the Delta Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE DELTA STEWARDSHIP COUNCIL:

1. The Council hereby finds the foregoing recitals to be true and correct and incorporates them herein.
2. The Council hereby certifies that the PEIR for the Delta Plan Amendments has been completed in compliance with the California Environmental Quality Act, Public Resources Code sections 21000 *et seq.*, and reflects the independent judgment and analysis of the Council.
3. The Council hereby adopts the Findings and Statement of Overriding Considerations for the Project, attached hereto and incorporated herein as Attachment 1.
4. The Council hereby adopts and incorporates into the Delta Plan Amendments all of the new mitigation measures identified in the PEIR, and in the Findings attached hereto as Attachment 1, that are within the responsibility and jurisdiction of the Council.
5. The Council hereby adopts the Mitigation Monitoring and Reporting Program for the Project, attached hereto and incorporated herein as Attachment 2.
6. The Council hereby adopts the following Delta Plan Amendments:
 - a. Revisions to Delta Plan Chapter 7, the Delta Levees Investment and Reduction Strategy Amendment, as amended by the Delta Levees Investment and Reduction Strategy Amendment incorporating the edits shown in Final PEIR, Attachment A-1. Revised Delta Plan Chapter 7 is attached hereto as Attachment 3.
 - b. Revisions to Delta Plan Chapter 3, the Amendment for Conveyance, Storage Systems, and the Operation of Both, incorporating the edits shown in Final PEIR, Attachment A-3. Revised Delta Plan Chapter 3 is attached hereto as Attachment 4.
 - c. Revisions to Delta Plan Appendix E, Performance Measures for the Delta Plan, incorporating the edits shown in the Final PEIR, Attachment A-4. Revised Delta Plan Appendix E is attached hereto as Attachment 5.
7. The Council hereby finds that Attachment 5 is based, in part, on the Data Sheets for Revised Performance Measure included as Attachment C-7 to the Draft PEIR, as revised in Attachment A-5 to the Final PEIR. The Performance Measure Data Sheets, as revised, are attached hereto and incorporated herein as Attachment 6.
8. The Council directs the Executive Officer to incorporate the errata; any other non-substantive, technical changes identified and directed by the Council at the April 26, 2018 meeting; and any other non-substantive, technical changes and formatting edits identified subsequent to that meeting.

9. The Council directs the Executive Officer to initiate rulemaking to repeal Delta Plan policy RR P1 (Cal. Code Regs., tit. 23, § 5012), to adopt Delta Plan policy RR P1 as shown in Attachment 3 hereto (revised Delta Plan Chapter 7), to amend the Delta Plan Glossary (Cal. Code Regs., tit. 23, § 5001) to add the new glossary terms from new Delta Plan policy RR P1, and to amend Delta Plan policy G P1 (Cal. Code Regs., tit. 23, § 5002(b)(2)) to clarify that all mitigation measures adopted and incorporated into the Delta Plan apply to covered actions, and to make any technical changes required by the Office of Administrative Law in order to achieve any of the forgoing.

CERTIFICATION

On a motion by Councilmember Tatayon, seconded by Councilmember Mehranian, and a vote of the Council, the foregoing resolution was passed and adopted by the Delta Stewardship Council by a vote of 5 in favor to 2 opposed at a regular meeting of the Delta Stewardship Council on April 26, 2018.

Dated: April 26, 2018



Shalita Brydie
Clerk of the Board of the Delta Stewardship Council